

AP 5520 STUDENT DISCIPLINE PROCEDURES

References:

Education Code Sections 66300, 72122, and 76030

The purpose of this procedure is to provide a prompt and equitable means to address violations of the Standards of Student Conduct. If the student wishes to proceed beyond the informal process described in AP 550, then the following procedure applies. This procedure guarantees to the student or students involved the due process rights guaranteed them by state and federal constitutional protections. This procedure will be used in a fair and equitable manner, and not for purposes of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.

These Administrative Procedures are specifically not intended to infringe in any way on the rights of students to engage in free expression as protected by the state and federal constitutions, and by Education Code Section 76120, and will not be used to punish expression that is protected.

Definitions:

District – The Chabot-Las Positas Community College District.

Student – Any person currently enrolled as a student at any college or in any program offered by the District.

Instructor – Any academic employee of the District in whose class a student subject to discipline is enrolled, or counselor who is providing or has provided services to the student, or other academic employee who has responsibility for the student's educational program.

Designee- A person designated by the college or District. The Vice President of Student Services or college President may name a designee for Vice President of Student Services. The campus safety administrator or President may name a designee for campus safety administrator. The Chancellor may name the college President or another designee for Chancellor.

Short-term Suspension – Exclusion of the student by the Chancellor for good cause from one or more classes for a period of up to ten consecutive days of instruction.

Long-term Suspension – Exclusion of the student by the Chancellor for good cause from one or more classes for the remainder of the school term, or from all classes and activities of the college for one or more terms.

Expulsion – Exclusion of the student by the Board of Trustees from all colleges in the District for one or more terms.

Removal from class – Exclusion of the student by an instructor for the day of the removal and the next class meeting.

Written or verbal reprimand – An admonition to the student to cease and desist from conduct determined to violate the Standards of Student Conduct. Written reprimands may become part of a student's permanent record at the college. A record of the fact that a verbal reprimand has been given may become part of a student's record at the college for a period of up to one year.

Withdrawal of Consent to Remain on Campus – Withdrawal of consent by the campus security administrator/supervisor or designee for any person to remain on campus in accordance with California Penal Code Section 626.4 where the campus security administrator/supervisor or designee has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus.

Day – Days during fall and spring semesters when the College is in session and regular classes are held, excluding Saturdays and Sundays. For the summer session, days—for purposes of notice and response under this Administrative Procedure-- may be reasonably extended to ensure the responsible parties are able to appropriately attend to the issue. Notice of extension will be provided to the student.

Short-term Suspensions, Long-term Suspensions, and Expulsions: Before any disciplinary action to suspend or expel is taken against a student, the following procedures will apply:

- **Notice** – The Vice President of Student Services or designee (VPSS/Designee) will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following:
 - the specific section of the Standards of Student Conduct that the student is accused of violating.
 - a short statement of the facts supporting the accusation.
 - the right of the student to meet with the VPSS/Designee to discuss the accusation, or to respond in writing.
 - the nature of the discipline that is being considered.
- **Time limits** – The notice must be provided to the student within 5 days of the date on which the conduct was reported; in the case of continuous, repeated or ongoing conduct, the notice must be provided within 10 days of the date on which conduct was reported which led to the decision to take disciplinary action.

- **Meeting** – If the student chooses to meet with the VPSS/Designee, the student will again be told the facts leading to the accusation, and must be given an opportunity to respond verbally or in writing to the accusation. Within 5 days of the meeting, subject to any needed further investigation, the VPSS/Designee will deliver a written statement to the accused student in accordance with Administrative Procedure 5500. The student may either accept the VPSS/Designee decision, and allow the recommended action to proceed, or may, if the recommended action is long-term suspension or expulsion, notify the VPSS/Designee in writing within two (2) working days to initiate a formal hearing.

Short-term Suspension – After the meeting described above, the VPSS/Designee may decide to impose a short-term suspension, to impose some lesser disciplinary action, or to end the matter. A short-term suspension will be for up to 10 days. Written notice of the VPSS/Designee decision shall be provided to the student within 5 days after the meeting. The notice will include the length of time of the suspension, or the nature of the lesser disciplinary action, and the effective date of the action to be taken. The VPSS/Designee decision on a short-term suspension or lesser disciplinary action shall be final.

Long-term Suspension – Within 15 days after the meeting described above, the Chancellor or designee, generally college President Chancellor/Designee) shall, pursuant to a recommendation from the VPSS/Designee, decide whether to impose a long-term suspension. Written notice of the Chancellor/Designee decision shall be provided to the student. If the Chancellor/Designee decision is to impose a long-term suspension, the notice will include the right of the student to request a formal hearing before the long-term suspension is imposed, and a copy of this policy describing the procedures for a hearing.

Expulsion – Within 15 days after the meeting described above, the Chancellor/Designee shall, pursuant to a recommendation from the VPSS/Designee, decide whether to recommend expulsion to the Board of Trustees. Written notice of the Chancellor/Designee's decision shall be provided to the student. If the Chancellor/Designee decision is to impose an expulsion, the notice will include the right of the student to request a formal hearing before expulsion is imposed, and a copy of this policy describing the procedures for a hearing.

Hearing Procedures – Request for Hearing.

Within 5 days after receipt of the VPSS/Designee decision regarding a long-term suspension or expulsion, the student may request a formal hearing. The request must be made in writing to the Chancellor/Designee or designee.

Schedule of Hearing – The formal hearing shall be held within 20 days after a formal request for hearing is received.

Hearing Panel – The hearing panel for any disciplinary action shall be composed of at least one administrator, one faculty member, and one student.

The Chancellor/Designee, the president of the Academic Senate, and the Associate Students president shall each, at the beginning of the academic year, establish a list of at least five persons who will serve on student disciplinary hearing panels. The Chancellor/Designee shall appoint the hearing panel from the names on these lists. However, no administrator, faculty member or student who has any personal involvement in the matter to be decided, who is a necessary witness, or who could not otherwise act in a neutral manner shall serve on a hearing panel.

Hearing Panel Chair – The Chancellor/Designee shall appoint one member of the panel to serve as the chair. The decision of the hearing panel chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by both other members of the panel to the contrary.

Conduct of the Hearing - The members of the hearing panel shall be provided with a copy of the accusation against the student and any written response provided by the student before the hearing begins.

The facts supporting the accusation shall be presented by a college representative who shall be the VPSS/Designee.

The college representative and the student may call witnesses and introduce oral and written testimony relevant to the issues of the matter.

Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.

Unless the hearing panel determines to proceed otherwise, the college representative and the student shall each be permitted to make an opening statement. Thereafter, the college representative shall make the first presentation, followed by the student. The college representative may present rebuttal evidence after the student completes his/her evidence. The burden shall be on the college representative to prove by substantial of evidence that the facts alleged are true.

The student may represent himself/herself, and may also have the right to be represented by a person of his/her choice.

Hearings shall be closed and confidential unless the student requests that it be open to the public. Any such request must be made no less than 5 days prior to the date of the hearing.

In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the panel agree to the contrary.

The hearing shall be recorded by the District either by tape recording or stenographic recording, and shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the hearing panel chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. Tape recording shall remain in the custody of the District at all times, unless released to a professional transcribing service. The student may request a copy of the tape recording.

All testimony shall be taken under oath; the oath shall be administered by the hearing panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape recorded is not unavailable.

Within 10 days following the close of the hearing, the hearing panel shall prepare and send to the Chancellor/Designee a written decision. The decision shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The decision shall also include a specific recommendation regarding the disciplinary action to be imposed, if any. The decision shall be based only on the record of the hearing, and not on matter outside of that record. The record consists of the original accusation, the written response, if any, of the student, and the oral and written evidence produced at the hearing.

Chancellor/Designee Decision:

Long-term suspension – Within 10 days following receipt of the hearing panel's recommended decision, the Chancellor/Designee shall render a final written decision. The Chancellor/Designee may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the Chancellor/Designee modifies or rejects the hearing panel's decision, the Chancellor/Designee shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The decision of the Chancellor/Designee shall be final.

Expulsion – Within 10 days following receipt of the hearing panel's recommended decision, the Chancellor/Designee shall render a written recommended decision to the Board of Trustees. The Chancellor/Designee may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the Chancellor/Designee modifies or rejects the hearing panel's decision, he or she shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The Chancellor/Designee decision shall be forwarded to the Board of Trustees.

Board of Trustees Decision: The Board of Trustees shall consider any recommendation from the Chancellor/Designee for expulsion at the next regularly scheduled meeting of the Board after receipt of the recommended decision.

The Board shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public meeting in accordance with these procedures (Education Code Section 72122).

The student shall be notified in writing, by registered or certified mail or by personal service, at least three days prior to the meeting, of the date, time, and place of the Board's meeting.

The student may, within forty-eight hours after receipt of the notice, request that the hearing be held as a public meeting.

Even if a student has requested that the Board consider an expulsion recommendation in a public meeting, the Board will hold any discussion that might be in conflict with the right to privacy of any student other than the student requesting the public meeting in closed session.

The Board may accept, modify or reject the findings, decisions and recommendations of the Chancellor/Designee and/or the hearing panel. If the Board modifies or rejects the decision, the Board shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The decision of the Board shall be final.

The final action of the Board on the expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the District.

Immediate Interim Suspension (Education Code Section 66017): The Chancellor/Designee may order immediate suspension of a student where he/she concludes that immediate suspension is required to protect lives or property and to ensure the maintenance of order. In cases where an interim suspension has been ordered, the time limits contained in these procedures shall not apply, and all hearing rights, including the right to a formal hearing where a long-term suspension or expulsion is recommended, will be afforded to the student within ten days.

Removal from Class (Education Code Section 76032): Any instructor may order a student removed from his/her class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the VPSS/Designee and the area dean. The area dean shall arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the VPSS/Designee shall attend the conference. The student shall not be returned to the class during the period of the removal without the concurrence of the instructor. Nothing herein will prevent the VPSS/Designee from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal.

Withdrawal of Consent to Remain on Campus: The campus safety administrator/supervisor or VPSS/Designee may notify any person for whom there is a reasonable belief that the person has willfully disrupted the orderly operation of the

campus that consent to remain on campus has been withdrawn. If the person is on campus at the time, he/she must promptly leave or be escorted off campus. If consent to remain on campus is withdrawn a written report must be promptly made to the Chancellor/Designee.

The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the period of the withdrawal. The request shall be granted not later than seven days from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to interim suspensions.

In no case shall consent be withdrawn for longer than 5 days from the date upon which consent was initially withdrawn.

Any person as to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent has been withdrawn, except to come for a meeting or hearing, is subject to arrest (Penal Code Section 626.4).

Time Limits: Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

Date Approved: March 18, 2014; Revised August 2016